

## STATE OF VERMONT

SUPERIOR COURT

CIVIL DIVISION

CHITTENDEN COUNTY

DOCKET NO. 127-2-18

CNCV

ANDREW HOLLINS

PLAINTIFF

V.

SOUTH BURLINGTON Police Dept

OFFICER, SEAN POPE

OFFICER, MICHAEL DEFIOR

DEFENDANT(S)

VERMONT SUPERIOR COURT  
FILED

FEB - 5 2018

Chittenden I  
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U.S. DISTRICT COURTACTION

NOW COMES, THE PLAINTIFF ANDREW HOLLINS PRO-SE AND HEREBY FILES THIS 42 U.S.C SECTION 1983 ACTION AGAINST DEFENDANT THE SOUTH BURLINGTON POLICE DEPARTMENT OF THE STATE OF VERMONT, POLICE OFFICERS SEAN POPE AND MICHAEL DEFIOR FOR VIOLATIONS OF THE PLAINTIFF CIVIL RIGHTS UNDER ARTICLE ELEVEN OF THE VERMONT STATE CONSTITUTION AND THE PLAINTIFFS FOURTH AMENDMENT RIGHT UNDER THE UNITED STATES CONSTITUTION FOR UNREASONABLE AND ILLEGAL SEARCH AND SEIZURES. AN FOR THE UNLAWFUL IMPRISONMENT WHICH HAS VIOLATED THE PLAINTIFFS EIGHT AMENDMENT RIGHT AGAINST CRUEL AND UNUSUAL PUNISHMENT.



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(Continued)

OFFICERS POPE AND DEFIORS WERE ACTING UNDER THE COLOR OF STATE LAW WHEN THEY VIOLATED THE PLAINTIFFS CIVIL AND CONSTITUTIONAL RIGHTS. THIS 42 U.S.C. 1983 ACTION IS BEING FILED AGAINST THE DEFENDANTS IN THEIR OFFICIAL CAPACITY AND IN THEIR INDIVIDUAL CAPACITY. THE PLAINTIFF SEEKS FOR INJUNCTIVE RELIEF IN THE DEFENDANTS OFFICIAL CAPACITY AND PUNITIVE AND COMPENSATORY DAMAGES IN THEIR INDIVIDUAL CAPACITY FOR THE VIOLATIONS OF THE PLAINTIFFS CONSTITUTIONAL PROTECTIVE RIGHTS UNDER THE UNITED STATES AND THE VERMONT STATE CONSTITUTION. THE PLAINTIFF ALSO BRINGS THIS 42 U.S.C. 1983 CLAIM AGAINST THE SOUTH BURLINGTON POLICE DEPARTMENT FOR FAILURE TO PROPERLY TRAIN DEFENDANT POPE AND DEFENDANT DEFIOR.

### JURISDICTION

THIS COURT HAS JURISDICTION OF THE PLAINTIFFS CLAIMS AGAINST THE DEFENDANT PURSUANT TO RULE (2) OF THE VERMONT RULES OF CIVIL PROCEDURE. SEE: MAINE V. THIBODEAU, 488 U.S. 1, 3, N.1, 100S.CT 2502, 651, ED. 2d 555 (1989).

## CAUSE OF ACTION

- ① ON DECEMBER 16, 2017. THE PLAINTIFF WAS SITTING IN A CAR ON LOBWOOD ST AND FURST ST IN THE CITY OF SOUTH BURLINGTON, VERMONT PARKED.
- ② THE PLAINTIFF LEFT THE LOBWOOD ST AND FURST ST, FOR MILLINGTON ROAD HEAD TO FOR THE JEFFERSON GAS STATION TO GET GAS. WHEN OUT OF THE CAR CAME A POLICE OFFICER THAT PULLED THE CAR OVER FOR A STOP DUE TO A STOP SIGN.
- ③ DEFENDANT OFFICER JEFFERSON CAME TO THE VEHICLE AND ASKED THE DRIVER OF THE VEHICLE ALMEDINA DUZO FOR HER LICENSE AND REGISTRATION.
- ④ AT NO POINT DID DEFENDANT POPE EXPLAIN THE REASON AS TO WHY HE HAD PULLED THE CAR OVER.
- ⑤ THE PLAINTIFF NOR THE DRIVER HAD AT NO POINT PRESENTED ANY ELEMENT OF ANY CRIMINAL ACTIVITY OR WRONG DOING BEFORE OR AFTER THE PULL OVER BY DEFENDANT POPE.



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(6) THERE WAS NO JUSTIFICATION OR REASONABLE FACTS FOR DEFENDANT POPE TO POSE THE CAR OVER, THEREFORE NOTHING FOUND IN THE CAR AFTER DEFENDANT POPE VIOLATED THE PLAINTIFF'S CONSTITUTIONAL RIGHTS WAS WORTHY, LEGAL AND UNCONSEQUENTIAL.

(7) THE LAW CLEARLY STATES WHEN AN OFFICER HAS REASONABLE SUSPICION OF CRIMINAL ACTIVITY, THE OFFICER MAY BUFFER DOWN THE INDIVIDUAL TO INVESTIGATE. BUT IT DOES NOT MEAN THAT OFFICER CAN SEARCH THE CAR AT THE START OF THE SEARCH AND SEIZURE THAT IS SUBJECT 1 TIO TO AND JUSTIFIED BY THE CRIMINAL WHICH BOLSTERED THE INITIATION PERMISSION.

(8) DEFENDANT POPE NEVER PRESENTED TO THE PLAINTIFF ANY FACTS OF REASONABLE SUSPICION OR CRIMINAL ACTIVITY NOR WORTHY DOING TO JUSTIFY A STOP. WHEN THE LAW CLEARLY STATES THAT A REASONABLE SEARCH AND SEIZURE MUST BE BASED ON SPECIFIC AND ARTICULABLE FACTS AND NOT ON AN OFFICER'S INCHOATE AND UNPARTICULARIZED SUSPICION OR HUNCH.

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- (9) WHEN DEFENDANT POPE PULLED THE PLAINTIFF OVER WITHOUT PROPER JUSTIFICATION FOR THE STOP. DEFENDANT POPE VIOLATED THE PLAINTIFF'S CONSTITUTIONAL PROTECTED RIGHTS SET FORTH IN THE VERMONT STATE CONSTITUTION AND THE UNITED STATES CONSTITUTION.
- (10) AFTER THE UNREASONABLE SEARCH, AND SEIZURE CONDUCTED BY DEFENDANT POPE, DEFENDANT POPE ARRESTED THE PLAINTIFF AND PUT HIM IN PRISON, 720 AT NO TIME WAS THE PLAINTIFF IN POSSESSION OF ANY ILLEGAL ITEMS.
- (11) NOW PRIOR TO THE TRAFFIC STOP CONDUCTED BY DEFENDANT POPE. DEFENDANT DEFURR PASSED THE PLAINTIFF AND THE DRIVER OF THE VEHICLE ALMOJINA DTJZO ON LOGWOOD STREET IN SOUTH GORLINSTON, VERMONT.
- (12) AGAIN, AT NO TIME DID DEFENDANT DEFURR SEE THE PLAINTIFF OR DRIVE ACT IN ANY CRIMINAL MANNER OR SEE THEM COMMITTE ANY WRONG DOING TO JUSTIFY A STOP.



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(13) Yet Defendant DeFlore Radioed IN to Defendant Pope requesting that he keep a eye on "the vehicle" that was occupied by PLAINTIFF. Defendant DeFlore Radioed IN this transmission without any reasonable suspicion or grounds which violated PLAINTIFF Rights.

(14) In other words Defendant DeFlore wanted Defendant Pope to conduct a UNREASONABLE traffic stop on PLAINTIFF vehicle without any justification or cause which also violated PLAINTIFF's Constitutional Probable Rights.

(15) THE PLAINTIFF WAS THEN Pulled Over At the JIFFYMART Gas Station on Williston Road in South Burlington Vermont by Defendant Pope.

(16) Officer Pope pulled the car over then Radioed Officer DeFlore who came to the Area Right Away.

(17) Officer Pope then approached the vehicle asked the driver ALMEDINA DJIZO for her license and registration which she complied, then he asked PLAINTIFF

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(CONTINUOUS)

(17) FOR HIS IDENTIFICATION WHICH HE COMPLIES, THEN IMMEDIATELY AFTERWARDS DEFENDANT POPE ASKED THE DRIVER TO EXIT THE VEHICLE TO SPEAK TO HIM PRIVATELY.

DEFENDANT POPE THEN BEGIN ASKING THE DRIVER ABOUT PLAINTIFF.

(18) DEFENDANT POPE ASKED DRIVER ALMOSTING "DUZU" WHO IS THIS GUY TO YOU"? "HOW LONG HAVE YOU KNOWN HIM"? "DID YOU AND HIM COME TO VERMONT TOGETHER"? THEN DEFENDANT POPE ALLOWED HER TO GO BACK IN-CAR.

(19) THEN DEFENDANT POPE ASKED PLAINTIFF TO EXIT THE VEHICLE. DEFENDANT POPE THEN SEARCHED PLAINTIFF IN FOUND NO ILLEGAL ITEMS ON PLAINTIFF BUT BEGIN ASKING PLAINTIFF A SERIES OF QUESTIONS NONE WHICH PERTAIN TO WHY THE PLAINTIFF VEHICLE IN WHICH HE OCCUPIED WAS BEING PULLED OVER.

(20) WHEN A 3<sup>RD</sup> OFFICER ARRIVED AT THE SCENE A REQUEST TO SEARCH THE CAR WAS MADE AND THE OFFICER PULLED OUT A CONSENT FORM TO SEARCH THE VEHICLE. THE PLAINTIFF DID NOT HAVE ANY KNOWLEDGE OF ANY ILLEGAL



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(Continued)

(20) ITEMS IN THE VEHICLE AND WAS NOT IN POSSESSION OF ANY ILLEGAL ITEMS SO THE PLAINTIFF CONSENTED TO THE SEARCH.

(21) IN RESULT, THERE WAS ILLEGAL ITEMS FOUND. THESE ITEMS WERE FOUND UNDER THE DRIVER ALMEDINA OJOTO SEAB, THE DRIVER WHO WAS THE SOLE OPERATOR AND WHO HAD LEGAL POSSESSION OF THE VEHICLE.

(22) ALMEDINA OJOTO WAS AT NO TIME ARMED OR WEAPONED AT THE OFFICER. EVEN THOUGH AT FIRST SHE WAS THE INDIVIDUAL IN POSSESSION OF THE VEHICLE AND IN TURN THE ILLEGAL ITEMS FOUND WITHIN.

(23) WHEN OFFICER DEFIORE DIDNT HAVE REASONABLE CAUSE TO REQUEST OFFICER POPE TO CONDUCT THE TRAFFIC STOP AND WHEN OFFICER POPE HIMSELF LACKED REASONABLE CAUSE BEFORE CONDUCTING THE TRAFFIC STOP. THE TRAFFIC STOP WAS DONE IN A MANNER THAT CAN ONLY BE EXPLAINED AS UNLAWFUL.

(24) WHEN THE VEHICLE WAS SEARCHED WITH NO SHOWING OF WRONG DOING OR CRIMINAL



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(Continued)

(24) Activity from either the plaintiff or the driver. The officers, Defendants Pope and DeFiora violated the plaintiff and the driver's constitutional protected rights set forth in the 11<sup>th</sup> Amendment of the Vermont State Constitution Against Unreasonable Search and Seizure. The Defendants also violated the plaintiff's constitutional protected rights set forth in the 4<sup>th</sup> Amendment of the United States Constitution Against Unreasonable Search and Seizure.

(25) After the Defendants violated the plaintiff's civil rights in regards to the unreasonable search and seizure the Defendants put the plaintiff in prison, this can only be seen as an "illegal imprisonment". When the Defendant took the plaintiff's liberty of freedom in an illegal way, they violated the plaintiff's rights against "Cruel and Unusual Punishment" that are set forth in the United States Constitution 8<sup>th</sup> Amendment.

(26) The Plaintiff brings his claim against the South Burlington Police Department

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(CONTINUED)

(26)

FOR THE FAILURE TO PROPERLY TRAIN DEFENDANTS POPE AND DEFENDANT.

(27)

THE PLAINTIFF ASSERTS THAT THE COLOR OF HIS SKIN IS WHAT PUT THE WHOLE TRAIN OF EVENTS INTO EFFECT AND THAT THE PLAINTIFF ANDERSON HOLMES WAS TARGETED BY THE DEFENDANTS POPE AND DEFENDANT ON THOSE GROUNDS.

RELIEF SOUGHT BY THE PLAINTIFF FROM DEFENDANT  
INTENDED INJUNCTIVE RELIEF

(1)

THE PLAINTIFF ASKS THE COURT TO MANDATE THAT IF IN THE FUTURE IF THE PLAINTIFF AND DEFENDANTS POPE OR DEFENDANT ARE INVOLVED IN ANY TYPE OF INTERACTION THAT THE DEFENDANTS REFRAIN THEMSELVES FROM THE INCIDENT AND CALL FOR A THIRD PARTY TO ADDRESS THE CONCERNS.

FURTHER RELIEF SOUGHT COMPENSATORY AND  
PUNITIVE DAMAGES

(1)

FOR THE DEFENDANTS VIOLATIONS OF THE PLAINTIFFS 4<sup>TH</sup>, 11<sup>TH</sup>, AND 8<sup>TH</sup> AMENDMENT RIGHTS THE PLAINTIFF SEEKS \$250,000 DOLLARS. FOR THE DEFENDANTS KNOWINGLY



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(Continued)

① CONDUCTED AN ILLEGAL TRAFFIC STOP AND MADE AN UNREASONABLE SEARCH AND SEIZURE, VIOLATED THE GUIDELINES AND RULES ESTABLISHED WITHIN THE LAW AND IN THE DEFENDANT'S POLICY AND PROCEDURES BUT WERE DISREGARDED AND THE PLAINTIFF WAS TARGETED FOR THE COLOR OF HIS SKIN.

THEREFORE, THE PLAINTIFF REQUESTS THAT THE HONORABLE COURT TAKE JURISDICTION OF THIS MATTER IN THE FURTHERANCE OF JUSTICE AND GRANT AN ORDER RELIEF THAT THE COURT FEELS THE PLAINTIFF IS ENTITLED TOO.

Respectfully Submitted By  
x Andrew Hollings

NORTHWEST STATE CORR FAC  
3649 LOWER NEWTON ROAD  
SWANTON, VT 05488

DATE: 2/1/18

x Andrew Hollings